

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

JOHN MCCLELLAN, JR.,

Plaintiff,

v.

Case No. CIV-12-202-RAW

(1) SKYTECH ENTERPRISES, LTD, d/b/a
SKYTECH SECURITY SERVICES,
(2) ASBERRY RAKESTRAW, individually,
and
(3) ANNA RAKESTRAW, individually,

Defendants.

ORDER

This matter came before the court for a hearing on the pending motions on November 15, 2012. For the reasons stated at the hearing, Defendants' motion to dismiss [Docket No. 19] is DENIED, Plaintiff's motion to endorse additional defendant [Docket No. 28] is DENIED, and the joint motion to extend scheduling order dates [Docket No. 29] is DENIED. Plaintiff filed his Amended Complaint on August 17, 2012, adding as a party United Government Security Officers of America. Plaintiff then failed to serve that party and now seeks leave to "endorse" it. The United Government Security Officers of America is not a necessary party to this action*, and as Plaintiff failed to serve that party, it is hereby dismissed from this action.

As stated at the hearing, Plaintiff has pled sufficient facts to state a claim that is plausible.

*Plaintiff "need not sue both his union and former employer in the same case, and he may choose to seek damages against only one of the potential defendants, but in any event, 'the case he must prove is the same whether he sues one, the other, or both.'" Webb v. ABF Freight System, Inc., 155 F.3d 1230, 1239 (10th Cir. 1998) (citing DelCostello v. International Broth. of Teamsters, 462 U.S. 151, 165 (1983)).

See Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007). Of course, Defendants may re-urge their arguments in a motion for summary judgment. As the court mentioned, it is especially skeptical on the issue of piercing the corporate veil, but Plaintiff has pled sufficient facts to state a claim that is plausible.

Now before the court is Defendants' motion to extend the deadline for dispositive motions to November 30, 2012 [Docket No. 31]. The motion is hereby GRANTED in part and DENIED in part. The court will extend the deadline to November 21, 2012. Plaintiff's Response deadline will be December 5, 2012. Defendants may then file a Reply no later than December 11, 2012.

IT IS SO ORDERED this 16th day of November, 2012.

A handwritten signature in cursive script, reading "Ronald A. White", written over a horizontal line.

Ronald A. White
United States District Judge
Eastern District of Oklahoma